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REDISTRICTING ADVISORY

July 8, 2021

As we have previously advised you, the Census Bureau has formally announced that the 2020 federal census data will not be released until September 30, 2021. Although several lawsuits have been filed seeking to expedite the release of census data, the only ruling to date that provides some possibility that the data necessary for redistricting purposes might be released earlier is a ruling out of Ohio that gives the Census Bureau till August 16, 2021 to release "Legacy Data". Legacy data is a preliminary set of data that has not been processed by the Census Bureau in the format normally used by redistricting software. While experienced programmers could use the Legacy data to make preliminary plans, until the formal release, those preliminary plans would not be suitable for the final product for redistricting. So, at best, the use of Legacy data might give interested parties roughly two more weeks to begin the redistricting effort. The prospect now is that the plan review cannot meaningfully begin till October 1, 2021.

The only bill that addressed redistricting that passed both houses and was signed by the Governor is HB 2025, by Rep. Todd Hunter. This bill, which is attached, establishes a deadline for State and local governments to act on the basis of any "report or counts" issued by the Census Bureau no later than the 1st day of the Month after the 150th day of publication of that report or count. This means that counties, cities and school districts should target March 1st as the date each should be finished with their redistricting efforts. This statute, signed by the Governor on June 15, 2021, could be subject to any further action by the Texas Legislature acting in a special session. HB 2025 does not address election dates for primary elections, filing periods, or the like. There will be a special session to draft federal congressional and state legislative boundaries, and we expect more clarity as these events unfold.

It will take us as much as three weeks after the release of the census data on September 30, 2021 to load that data into our software, and to begin producing our "initial analysis" of your existing political boundaries. As noted in our contract for services, should our initial analysis reveal that your existing boundaries remain legally viable, you have the option to terminate our services at that point, and have no further financial obligation to our firm. You will recall that local political subdivisions have a maximum deviation not to exceed 10% from top to bottom. In other words, if your smallest and largest political divisions, such as Commissioners Court precincts, city wards, or school board districts do not exceed a total deviation from an ideal sized (equally balanced population) division of 10%, you are under no legal requirement to redistrict. However, you may determine that redistricting is desirable if other considerations suggest redistricting might be appropriate in order to streamline election administration or to address peculiar matters unique to your county, city or school district. These considerations might include ease of access to polling places due to geography, clusters of communities, or other factors or combination of factors that have become obvious since 2010.

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Prior to the release of census data on September 30, 2021, you may want to take some procedural steps that will be useful when the time comes to consider one or more alternative plans for redrawing your political boundaries.

1. The first item for consideration is the adoption of criteria which will guide the redistricting effort. Attached to this Advisory are suggested guidelines. These guidelines are intended to provide a framework for both the plans that might be developed by the executive body of your political jurisdiction itself, or any outside group that might suggest a plan for consideration. This would include any Citizens Committee formed by your political subdivision itself.
2. Consider whether or not your executive body wants to delegate some measure of authority to a Citizens Committee to propose possible redistricting plans to the Executive Body of your political subdivision. Citizens Committees were favored by the Department of Justice, when Section 5 of the Voting Rights Act was operable, in the belief that citizens participation was beneficial to the redistricting process. You are not obligated to form such committees, but if you do elect to do so, the membership of such committees should generally reflect the demographic makeup of your jurisdiction, and be representative of the various racial or ethnic populations present in your jurisdiction by similar percentages of population.
3. Adoption of Rules of Procedure and Decorum. If your political subdivision does not already have Rules of Procedure and Decorum, it is suggested that you consider adoption of such rules prior to any public hearing on redistricting. These matters are typically conducted without any discord, but on occasion, rules adopted well prior to the redistricting workshops or public hearings can be helpful. If you do not presently have such rules, we can provide a draft set for your consideration.
4. Scheduling preliminary workshops. We recommend that each political jurisdiction that will be participating in our redistricting program conduct an initial workshop to receive information regarding the process, and to ask questions you may have. We will organize, with your participation, regional workshops for this purpose, so that your questions might be answered well in advance of the release of census data.

Sincerely,


James P. Allison


Robert T. Bass


J. Eric Magee

RTB/jm
Enclosures:

HB 2025
Order Appointing Citizens Advisory Committee
Order Establishing Criteria

H.B. No. 2025

AN ACT

relating to certain statutes and governmental actions that relate to the federal census.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2058.001(b), Government Code, is amended to read as follows:

(b) A governmental entity shall recognize and act on a published report or count relating to a federal decennial census and released by the director of the Bureau of the Census of the United States Department of Commerce on the later of:

(1) ~~[on]~~ September 1 of the year after the calendar year during which the census was taken ~~[if the report or count is published on or before that date];~~ or

(2) ~~[on]~~ the first day of the first calendar month occurring after the 150th day after the date of the [its] publication of the report or count ~~[if the report or count is published after September 1 of the year after the calendar year during which the census was taken].~~

SECTION 2. Section 2058.002, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Nothing in this chapter prohibits the legislature from acting on published reports and counts described by Section 2058.001(b) and relating to the 2020 federal decennial census, regardless of the date the reports or counts are published.

(d) Notwithstanding any other law, the commissioners court of a county may act on published reports or counts described by Section 2058.001(b) and relating to the 2020 federal decennial census, and any information provided by the state relating to redistricting based on those reports or counts, in carrying out the commissioners court's duties under Chapter 42, Election Code, with respect to establishing or changing election precincts, regardless of the date the reports or counts are published or the information is provided or any required period for those duties as provided by law.

(e) This subsection and Subsections (c) and (d) expire September 1, 2023.

SECTION 3. Chapter 2058, Government Code, is amended by adding Section 2058.0021 to read as follows:

Sec. 2058.0021. APPLICABILITY OF 2010 FEDERAL CENSUS; TEMPORARY PROVISION. (a) Except as expressly provided by other law and notwithstanding the definition of "population" in Sections 311.005 and 312.011, a statute that applies to a political subdivision having a certain population according to the most

recent federal census:

(1) continues to apply to the same political subdivisions to which the statute applied under the 2010 federal census, regardless of whether the political subdivisions continue to have the population prescribed by the statute according to the 2020 federal census; and

(2) does not apply to a political subdivision to which the statute did not apply under the 2010 federal census, regardless of whether the political subdivision has the population prescribed by the statute according to the 2020 federal census.

(b) This section expires September 1, 2023.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

H.B. No. 2025

President of the Senate

Speaker of the House

I certify that H.B. No. 2025 was passed by the House on May 4, 2021, by the following vote: Yeas 146, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2025 on May 28, 2021, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2025 was passed by the Senate, with amendments, on May 25, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

*IN THE _____ (EXECUTIVE BODY)
OF
(POLITICAL SUBDIVISION)*

**ORDER APPOINTING MEMBERS OF
CITIZENS ADVISORY COMMITTEE
TO ASSIST THE (EXECUTIVE BODY)
ON REDISTRICTING OF (POLITICAL SUBDIVISION) POLITICAL BOUNDARIES**

The (EXECUTIVE BODY) of (POLITICAL SUBDIVISION), acting in conformity with the provisions of the Texas Constitution, and Chapter 42 of the Texas Election Code, in a public meeting on the _____ day of _____, 202_ after due notice, determined that the appointment of a Citizens Advisory Committee to assist in the revision of political boundaries would serve the public interest and facilitate greater participation by the public in the vital processes of democracy.

Each member of the (Executive Body) has nominated (number) individuals from their respective elective jurisdictions to serve as prospective members of the Citizens Advisory Committee, as follows:

Division 1:

Name: _____
Address: _____
Phone: _____

Name: _____
Address: _____
Phone: _____

Division 2:

Name: _____
Address: _____
Phone: _____

Name: _____
Address: _____
Phone: _____

Division 3:

Name: _____
Address: _____
Phone: _____

Name: _____
Address: _____
Phone: _____

Division 4:

Name: _____
Address: _____
Phone: _____

Name: _____
Address: _____
Phone: _____

In addition, the Presiding Officer has nominated the following three (3) individuals to serve on the Citizens Committee, without regard to the political sub-division of the (Political Subdivision) in which that individual may reside.

Presiding Officer:

Name: _____
Address: _____
Phone: _____

Name: _____
Address: _____
Phone: _____

Name: _____
Address: _____
Phone: _____

The above nominations are hereby approved. The Citizens Committee shall initially report for service at ____:00 a.m. on the _____ day of _____, 202_ at the (designated location), (address), for purposes of organization and to elect a chairperson of said Committee. The Committee shall meet at such times and places as the Committee shall determine, and shall report their activities to the (Executive Body) on a regular basis, or as directed by the (Executive Body).

*Members of the Citizens Committee shall serve without compensation, but with the eternal gratitude of the (Executive Body) and with the respect and admiration of the people of (Political Subdivision). Read and Adopted by a vote of _____ ayes and _____ nays on this date.

Date:

(Presiding Officer)

Attest:

(Recording Officer)

ORDER _____

AN ORDER ESTABLISHING CRITERIA FOR REDISTRICTING OF POLITICAL BOUNDARIES

The Commissioners Court is the governing body of Burnet County, Texas, meeting in a duly scheduled and posted meeting, does hereby adopt the following criteria for use in the redistricting of all county political boundaries. Any plan for the redistricting of representative members of the Commissioners Court of the Burnet County should, to the maximum extent possible, conform to the following criteria:

1. The plan should ensure that all applicable provisions of the U.S. and Texas Constitutions, the Voting Rights Act, the Texas Election Code are honored.
2. The plan should be drawn in such a manner that the maximum deviation from an ideal size, as determined by dividing the total population of the county divided by four (the number of single member districts that compose the Commissioners Court of Burnet County, by not more than five (5%) percent for any single precinct, or a total top to bottom deviation (percentage of deviation below and above the ideal size) of not more than ten (10%) percent.
3. The plan should address minority representation, and if at all possible, in conformity with constitutional standards, avoid retrogression in the percentage of population and voting age demographics consistent with existing minority representation.
4. The plan should, avoid fragmentation and preserve minority communities of interest to the maximum extent possible. These communities of interest should be recognized and retained intact where possible. Only when the overall minority population of the county is sufficiently large to require more than one minority district should minority populations be divided, and only then to the least degree possible.
5. The plan should not, however, attempt to unreasonably join geographically remote minority populations into a single precinct unless there are strong and genuine connections between these communities as reflected by common schools, churches, or cultural ties. For example, minority populations in two separate towns, located miles apart, may not have sufficient links or common political cohesion to justify joining these two minority population centers into a single electoral group. Particularly when dealing with distinct minority groups,

such as Black and Hispanic populations, a general assumption that separate minority populations will vote in a "block" may be unsupportable in fact.

6. The plan should seek compact and contiguous political boundaries. Physical boundaries of cultural or economic significance, such as rivers, multi-laned control access highways or turnpikes, which tend to divide populations in fundamental ways, should be recognized and where possible, should only serve as necessary to achieve recognized objectives. To the maximum extent possible, clearly recognized boundaries, such as streets and highways, should be used to facilitate ease of voter identification of boundaries, as well as election administration.
7. Where possible, well-recognized and long used election precinct boundaries should be retained intact (within the limitations imposed by state and federal law) or with as little alteration as possible.
8. Election precincts in the plan should be sized in conformity with state law. For example, in counties that use traditional, hand counted paper ballots, no election precinct may contain more than 2000 voters. In counties with voting systems that allow for automated ballot counting, this number may be increased to as many as 5000 registered voters.
9. The plan should afford incumbent office holders with the assurance that they will continue to represent the majority of individuals who elected these incumbents, and all incumbents' residential locations should be retained in their reformed precincts to ensure continuity in leadership during the remaining term of incumbents to the extent possible.
10. The plan should address fundamental and necessary governmental functions, and to the extent possible, ensure that these functions are enhanced rather than impaired. For example, county road mileage should be balanced to the extent possible between the resulting commissioner's precincts. Election administration should not be unduly complex as a result of election boundaries.
11. The plan should ensure that election voting precincts under that plan do not contain territory from more than one commissioner's precinct, justice precinct, congressional district, state representative district, state senatorial district and state Board of Education. Although no longer required, city election wards should be honored in virtually all circumstances, with city and rural county voters being kept in separate voting precincts to the extent possible. Where they exist, other special election districts, such as water, hospital, or navigation

districts, should be structured in a manner to provide to the greatest extent possible the harmonious administration of various election jurisdictions.

12. The plan should attempt to locate polling places in convenient, well-known locations that are accessible to disabled voters to the maximum extent possible. Public buildings should be utilized to the maximum extent possible as polling places. Where necessary, buildings routinely open to the public, such as churches, retail businesses, or private buildings dedicated to public activities, can be used as polling places.
13. If the reduction of polling places can be accomplished, without impinging upon voter convenience and minority voting rights, such reductions can be considered.
14. Citizen input should be encouraged, but in order to minimize cost and to have sufficient information to evaluate such proposals fairly, the County will only consider proposed plans submitted to the County for evaluation by individual citizens or groups if the proposed plan is submitted to the County in a commonly used GIS format, such as .SHP, .MAP, .KLM, .GPX, .MDB, along with maps and demographic data sufficient to address voting rights concerns.

The foregoing criteria are deemed to be illustrative, but not exclusive, examples of fundamentally important issues, which should be considered in any redistricting plan. Therefore, the Commissioners Court expresses its intention to measure any plan submitted for consideration by this set of criteria, and to base any eventual exercise of discretion upon the foregoing criteria.

The criteria approved this date were considered in open Court, following posting not less than 72 hours before any action taken on the same. Upon motion by Comm Luther, second by Comm Beierle, the Commissioners Court of Burnet County hereby adopts the criteria set forth herein by a vote of 5 to 0.



Attest:

Janet Parker
County Clerk

J. Dally
County Judge

Signed this 24th day of August, 2021.